



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

January 10, 2008

The Honorable Judith Spang, Chairman
Resources, Recreation and Development Committee
Legislative Office Building, Room 305
Concord, New Hampshire 03301

Re: HB 1151, relative to reporting dates for the instream flow pilot program

Dear Chairman Spang:

Thank you for the opportunity to comment on HB 1151. This bill is intended to extend for two years the reporting dates for the Instream Flow Pilot program. This legislation was requested by the Department of Environmental Services (DES). However, HB 1151, as introduced, inadvertently contains incorrect dates so we request that the text of the original bill be replaced with the attached text, which contains the correct dates.

Legislation (RSA 483) was enacted in 1990 that required instream flow protection on Designated Rivers and directed DES to adopt rules for implementation. The method for applying instream flow protection was a contentious issue for many years, and, in 2002, a broad coalition of New Hampshire business and conservation interests joined together to enact Chapter 278, Laws of 2002 that called for a pilot program for instream flow protection on two of the Designated Rivers - the Lamprey River in the coastal watershed and the Souhegan River in the Merrimack watershed.

Laws of 2003, Chapter 319 provided initial funding, which was applied to the Souhegan pilot, and revised the reporting dates for various instream flow pilot activities described under Chapter 278. Federal funds were then secured for the Lamprey pilot. The field work and most scientific analysis have been completed for both pilot projects. However, the level of effort and time necessary for full stakeholder and legislative participation for development of final protected instream flows has exceeded original expectations. Specifically, we are requesting additional time to provide for more stakeholder review and input. The requested time will be used for additional meetings with both the advisory committees and individual water users as well as other stakeholders as the required water management plan is completed. This additional stakeholder involvement will be used to refine technical procedures for flow management in the water management plan and to consider and address specific concerns to build a consensus and ensure that both pilot projects are successful.

Thank you for this opportunity to comment on this bill. Please feel free to call me at 271-3503, or Steve Couture at 271-8801, if you have any questions or need additional information.

Sincerely,

Thomas S. Burack
Commissioner

cc: Representative Kappler
Representative Hubbard
Representative Hassan
ISF TRCs (via electronic email)
ISF WMPAACs (via electronic email)

RMAC (via electronic mail)
LMAC (via electronic email)
Local River Advisory Committees (via electronic mail)

DES Web site: www.des.nh.gov

P.O. Box 95, 29 Hazen Drive, Concord, New Hampshire 03302-0095

Telephone: (603) 271-3503 • Fax: (603) 271-2982 • TDD Access: Relay NH 1-800-735-2964

319:48 Instream Flow Pilot Program; Reporting Date Extended. Amend 2002, 278:2, III as amended by 2004, 319:48 to read as follows:

III. The commissioner of the department of environmental services shall initiate and adopt rules pursuant to RSA 541-A for other rivers designated under RSA 483:15 only after the adoption and implementation of the rules relative to protected instream flows pursuant to RSA 483:9-c for the Lamprey and Souhegan rivers and completion of the report required under section 3, III(d) of this act, but not before December 1, [2008] 2010.

319:49 Instream Flow Pilot Program; Reporting Dates Extended. Amend 2002, 278:3, III III as amended by 2004, 319:49 to read as follows:

III. The commissioner of the department of environmental services shall:

(a) By April 1, [2007] 2009, conduct protected instream flow studies and submit a report that details the results of science for the pilot program, including the projected impacts of the protected instream flows and water management plans to be implemented on water users, wildlife, recreation, and other interests along the rivers and any recommendations for proposed legislation. The department shall hold a public hearing jointly with the senate environment committee and the house resources, recreation and development committee within 60 days and be open for a public comment period of an additional 30 days. The department shall consider the public comments received in any revisions to the protected instream flow levels and water management plans for the Lamprey River and the Souhegan River.

(b) By October 1, [2007] 2009, adopt and implement the protected instream flows and water management plans relative to the Lamprey River and the Souhegan River.

(c) One year after the adoption and implementation of the protected instream flow levels and water management plans for the Lamprey River and the Souhegan River, the department shall hold a public hearing and open a 30-day public comment period. The department shall consider the public comments received in any revisions to the protected instream flow levels and water management plans for the Lamprey River and the Souhegan River.

(d) By December 1, [2008] 2010, submit a report that details the activities and results of the pilot program, including the impacts of the protected instream flows and water management plans on water users, wildlife, recreation, and other interests along the rivers and any recommendations for proposed legislation. The report shall also include a summary of public comments received and the completed instream flow studies and the adopted protected instream flow levels and water management plans and shall be submitted to the senate president, the speaker of the house of representatives, the governor, and the state library.

319:50 Committee to Study the Impact of Water Withdrawals on Instream Flows; Report Date Extended. Amend 2000, 242:5 as amended by 2001, 138:6 and 2002, 278:6 and 2004, 319:50 to read as follows:

242:5 Report. The committee shall report its findings and any recommendations for proposed legislation to the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before December 1, [2008] 2010.